

## Message Text

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E.O. 11652: GDS

TAGS: SHUM, PGOV, EAID, MI, US

SUBJECT: UNCLASSIFIED HUMAN RIGHTS REPORT ON MALAWI

1. DUE TO CHANGES IN THE FOREIGN ASSISTANCE ACT, UNCLASSIFIED HUMAN RIGHTS OBSERVANCE REPORTS MUST BE SUBMITTED TO CONGRESS WITH FY 79 CONGRESSIONAL AID PRESENTATION FOR RECIPIENTS OF DEVELOPMENT AS WELL AS SECURITY ASSISTANCE.

2. REQUIREMENT FOR PREPARATION OF AMENDED REPORT WAS LEVIED ON AF WITH VERY SHORT NOTICE, AND REPORTS WERE TO BE PREPARED IN ACCORDANCE WITH RIGID FORMAT. THIS IN TURN NECESSITATED ADDRESSING CERTAIN ISSUES WHICH HAD NOT BEEN DISCUSSED IN PREVIOUS REPORTS.

3. CONSCIOUS DECISION WAS MADE IN AF TO GO AHEAD WITH CONFIDENTIAL

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PREPARATION OF REPORTS ON BASIS OF INFORMATION ALREADY IN HAND, AND NOT TO TRY TO SUBMIT REPORTS TO FIELD FOR CLEARANCE BEFORE SUBMISSION TO HA. AT SAME TIME, DRAFTING OFFICERS WERE INSTRUCTED TO CAREFULLY AVOID VALUE JUDGMENTS AND TO STICK TO FACTS, MOST OF WHICH ARE IN ANY CASE AVAILABLE IN PRESS OR OTHER UNOFFICIAL SOURCES.

4. IN CASE OF MALAWI, IT IS AF'S VIEW THAT DE FACTO IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION HAVE BEEN

SUFFICIENT TO REDUCE RISK THAT DEVELOPMENT ASSISTANCE TO

MALAWI WILL COME UNDER CONGRESSIONAL FIRE ON HUMAN RIGHTS GROUNDS. NEVERTHELESS, THE UNCLASSIFIED REPORT IS UNCOMPROMISING IN ITS COVERAGE OF THE FACTUAL SITUATION AS AF UNDERSTANDS IT.

5. TEXT OF DRAFT REPORT FOLLOWS. WOULD APPRECIATE EMBASSY'S COMMENTS ASAP, ALTHOUGH PRINTING DEADLINES ARE SUCH THAT REPORT CAN PROBABLY BE RECALLED ONLY IF IMPORTANT ERRORS ARE INVOLVED. IN THIS CONNECTION, AF/E DEPUTY DIRECTOR WHITING RETURNED FROM VISIT TO LILONGWE WITH REPORT OF GOM RESTRICTING ASIANS FROM ENGAGING IN RURAL RETAILING. DEPARTMENT WOULD APPRECIATE EMBASSY'S VIEWS ON WHETHER THIS MEASURE HAS WORKED SUFFICIENT ECONOMIC HARDSHIP ON THE ASIAN COMMUNITY TO WARRANT INCLUSION UNDER EITHER 2.B. OR 3.A. BELOW.

6. BEGIN TEXT: MALAWI

1. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. TORTURE - REPORTS RECEIVED BY AMNESTY INTERNATIONAL(AI)  
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ALLEGE SPORADIC TORTURE AND BRUTALITY DIRECTED AGAINST POLITICAL PRISONERS, RESULTING IN SOME DEATHS IN DETENTION. WE HAVE SOUGHT INDEPENDENT CONFIRMATION OF THESE REPORTS, BUT WITHOUT SUCCESS; SOME HAVE BEEN CONCLUSIVELY DISPROVEN.

DURING THE 1972-73 PERIOD, AI CHARGES THAT AT LEAST 50 AND PERHAPS AS MANY AS 100 MALAWIAN WITNESSES WERE KILLED BY MALAWI CONGRESS PARTY MILITANTS AND MOBS INCITED BY THEM, OFTEN AFTER TORTURE. HARASSMENT AND BEATINGS OF WITNESSES AT THAT TIME WERE REPORTEDLY VERY WIDESPREAD. AI AND JEHOVAH'S WITNESS GROUPS HAVE CHARGED THAT SUCH PHYSICAL PERSECUTION WAS RENEWED FOLLOWING THE RETURN OF MANY WITNESSES FROM MOZAMBIQUE IN 1975, BUT THESE REPORTS HAVE NOT BEEN CORROBORATED.

B. CRUEL, INHUMAN OR DEGRADING PUNISHMENT - CONDITIONS IN MALAWIAN PRISONS ARE FAR BELOW THE WESTERN NORM. FOOD IS POOR, CELLS ARE VERY CROWDED (AI REPORTS AS MANY AS 20 TO 30 TO A CELL), CLOTHING IS INADEQUATE, AND MEDICAL CARE IS MINIMAL. POLITICAL PRISONERS ARE REPORTEDLY SEGREGATED FROM ORDINARY PRISONERS, AND THERE ARE ALLEGATIONS THAT IN SOME PRISONS THEY ARE SUBJECTED TO DEGRADING PUNISHMENTS FOR MINOR INFRACTIONS OF PRISON RULES. SOME FORMER POLITICAL PRISONERS HAVE SAID, HOWEVER, THAT BOREDOM WAS THE WORST ASPECT OF THEIR DETENTION.

C. ARBITRARY ARREST OR IMPRISONMENT - UNDER THE PUBLIC SECURITY REGULATIONS, SUMMARY DETENTION HAS BEEN COMMON

IN MALAWI. NO ARREST WARRANT IS NEEDED, NO CHARGES NEED BE FILED, AND NO TRIAL IS NORMALLY HELD. TYPICALLY, THERE HAS BEEN NO PUBLIC NOTICE OF AN INDIVIDUAL'S ARREST, AND MANY DETAINEES HAVE NEVER LEARNED WHY THEY WERE IMPRISONED. IT IS ESTIMATED THAT IN THE FALL OF 1976 1000-2000 PERSONS WERE IN DETENTION FOR "POLITICAL" OFFENSES. DETAINEES INCLUDED FORMER CABINET MINISTERS AND PARTY OFFICIALS, CIVIL SERVANTS, UNIVERSITY PROFESSORS  
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AND STUDENTS AND A VARIETY OF OTHERS. IN 1971, AN ENTIRE VILLAGE WAS REPORTEDLY DETAINED FOR A NUMBER OF MONTHS.

IN SEPTEMBER 1976, TWO SENIOR OFFICIALS WIDELY IDENTIFIED WITH THE CAPRICIOUS AND WIDESPREAD IMPLEMENTATION OF POLITICAL DETENTION WERE REMOVED FROM OFFICE AND CHARGED WITH TREASON. IN DECEMBER OF THAT YEAR, THE FIRST IN A SERIES OF MASS AMNESTIES TOOK PLACE. BY MID-SUMMER 1977, A NUMBER OF SOURCES AGREED THAT THE OVERWHELMING MAJORITY OF THOSE DETAINED WITHOUT CHARGE, INCLUDING SOME WHO HAD BEEN IMPRISONED FOR OVER A DECADE, HAD BEEN RELEASED.

THE DE FACTO SITUATION WITH REGARD TO ARBITRARY DETENTION HAS THUS EASED DRAMATICALLY IN THE LAST YEAR. THE PUBLIC SECURITY REGULATIONS REMAIN IN FULL FORCE, HOWEVER, AND THERE IS NO SIGN THAT THE MALAWI GOVERNMENT IS PREPARED TO FORESWEAR THEIR USE OR TO REINSTATE MALAWI'S SUSPENDED CONSTITUTIONAL GUARANTEES.

D. DENIAL OF FAIR PUBLIC TRIAL - THE RIGHT OF ACCUSED PERSONS TO A FAIR, IMPARTIAL AND SPEEDY TRIAL IS GENERALLY OBSERVED, INsofar AT THEIR CASES COME UNDER PROVISIONS OF ORDINARY MALAWIAN LAW. THE FAMILIAR SAFEGUARDS OF ENGLISH COMMON LAW ARE AVAILABLE TO SUCH DEFENDANTS. HOWEVER, NO DUE PROCESS HAS BEEN AVAILABLE TO POLITICAL DETAINEES; PRESIDENT BANDA HAS PUBLICLY DECLARED THAT IN SUCH CASES HABEAS CORPUS IS MEANINGLESS "HOCUS POCUS."

E. INVASION OF HOME - IN ORDINARY CIVIL AND CRIMINAL MATTERS, THE SANCTITY OF THE HOME AND FREEDOM FROM ILLEGAL SEARCH AND SEIZURE ARE NORMALLY PROTECTED IN MALAWI. IN MATTERS COMING UNDER THE PUBLIC SECURITY REGULATIONS, HOWEVER, SUCH PROCEDURAL SAFEGUARDS ARE OFTEN IGNORED.  
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## 2. RESPECT FOR CIVIL AND POLITICAL LIBERTIES:

A. FREEDOM OF THOUGHT, RELIGION ASSEMBLY - IN ALL AREAS CONCERNED WITH POLITICS AND GOVERNMENT, UNCONVENTIONAL

VIEWS ARE HELD OR EXPRESSED AT ONE'S OWN RISK. THE MALAWI CONGRESS PARTY APPARATUS AND AN EXTENSIVE NETWORK OF INFORMERS ARE USED TO ENFORCE CONFORMITY FROM LILONGWE DOWN TO THE MOST REMOTE VILLAGE. NO DISSENT IS TOLERATED; CRITICISM OF THE LIFE PRESIDENT, HOWEVER INDIRECT OR MILD, IS PUNISHABLE BY DETENTION.

LIKE ALL NON-GOVERNMENTAL ORGANIZATIONS IN MALAWI, TRADE UNIONS (UNDER THE MALAWI ORGANISATION OF WORKERS) ARE SUBJECT TO STRICT GOVERNMENT SCRUTINY AND CONTROL.

FREEDOM OF RELIGION IS NOT UNDER ATTACK IN MALAWI EXCEPT IN THE CASE OF THE JEHOVAH'S WITNESSES AND THE WATCHTOWER BIBLE AND TRACT SOCIETY, WHICH WERE BANNED IN 1967 AND 1969 RESPECTIVELY AS "UNLAWFUL SOCIETIES...DANGEROUS TO GOOD GOVERNMENT." IN 1972-73, DURING THE PERIOD OF VIOLENT PERSECUTION REFERRED TO ABOVE, 15-20,000 WITNESSES FLED TO MOZAMBIQUE AND ZAMBIA. IN AUGUST 1975, THOSE WHO REMAINED IN MOZAMBIQUE WERE FORCIBLY EXPELLED AND RETURNED TO MALAWI; FOR SEVERAL MONTHS THEREAFTER THOUSANDS WERE BROUGHT TO TRIAL UNDER THE BANNING LAW AND SENTENCED TO PRISON TERMS OF ONE TO THREE YEARS. RECENT REPORTS INDICATE THAT MOST, IF NOT ALL OF THE WITNESSES HAVE NOW COMPLETED THEIR PRISON TERMS AND ARE BEING ALLOWED TO RETURN TO THEIR HOME VILLAGES. THE GOVERNMENT, APPARENTLY HOPING TO AVOID FURTHER TROUBLE WITH THE WITNESSES, HAS REPORTEDLY MADE SPECIAL EFFORTS TO ENCOURAGE THEIR SUCCESSFUL REINTEGRATION INTO THEIR HOME VILLAGES.

THE GOVERNMENT OF MALAWI PRACTICES STRICT CENSORSHIP ON CONFIDENTIAL

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POLITICAL AND MORAL GROUNDS. ITS RESTRICTIONS ON LENGTH OF MEN'S HAIR AND THE HEIGHT OF SKIRT HEMS (AS WELL AS AN OUTRIGHT BAN ON THE WEARING OF TROUSERS BY WOMEN) ARE A REFLECTION OF THE PURITANICAL ATTITUDES OF PRESIDENT BANDA AND OF THE EXTENT TO WHICH THE GOVERNMENT'S POLICIES EMBODY THEM.

B. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL AND IMMIGRATION POLICIES - UNDER THE PUBLIC SECURITY REGULATIONS, THE GOVERNMENT HAS THE POWER TO RESTRICT THE MOVEMENT, CONTACTS AND EMPLOYMENT OF ANY CITIZEN. THIS POWER IS TYPICALLY USED TO EXERCISE CONTROL OVER PERSONS RELEASED FROM POLITICAL DETENTION. SUCH FORMER DETAINEES HAVE USUALLY BEEN REQUIRED TO RETURN TO THEIR HOME VILLAGES AND TO REPORT AT SHORT INTERVALS TO THE LOCAL PARTY BRANCH. REPORTEDLY, VERY FEW OF THE MANY PERSONS RELEASED FROM DETENTION IN THE PAST YEAR HAVE BEEN RUSTICATED IN THIS MANNER. AT THE SAME TIME, NONE ARE YET KNOWN TO HAVE BEEN PERMITTED TO RESUME THEIR FORMER EMPLOYMENT.

THE GOVERNMENT OF MALAWI ROUTINELY DENIES PASSPORTS TO FORMER DETAINEES AND TO OTHERS WHO HAVE ATTRACTED NEGATIVE OFFICIAL ATTENTION FOR VARIOUS REASONS. ALIENS, WHETHER VISITING OR RESIDENT IN MALAWI, ARE SUBJECT TO SUMMARY DEPORTATION. IN MID-1976, MALAWI'S ENTIRE GOAN COMMUNITY, OVER 200 PEOPLE, WAS EXPELLED FOR ALLEGEDLY FAILING TO GIVE DUE RESPECT TO PRESIDENT BANDA.

C. DEMOCRATIC PROCESSES ASSURING THE FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS - MALAWI IS A ONE-PARTY STATE, IN WHICH ALL POWER IS HELD BY PRESIDENT BANDA. SINCE PUTTING DOWN AN EARLY REVOLT AGAINST HIS AUTHORITY BY DISSIDENT CABINET MINISTERS IN 1964 AND 1965, PRESIDENT CONFIDENTIAL

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BANDA HAS NOT HAD TO FACE ANOTHER SERIOUS CHALLENGE. HE WAS MADE PRESIDENT FOR LIFE IN JULY 1971.

MEMBERSHIP IN THE MALAWI CONGRESS PARTY (MCP) IS COMPULSORY FOR ANYONE WISHING TO HOLD PUBLIC OFFICE. NO POLITICAL ACTIVITY OUTSIDE THE MCP FRAMEWORK IS PERMITTED, AND DESPITE THE GOVERNMENT'S CLAIMS TO GRASSROOTS DEMOCRACY WITHIN THE MCP, ACCESS TO POLITICAL OFFICE AT ANY LEVEL IS UNDER PRESIDENT BANDA'S PERSONAL CONTROL.

FREEDOM HOUSE RATES MALAWI AS "NOT FREE," 7 ON A SCALE OF 7 IN BOTH POLITICAL AND CIVIL LIBERTIES.

3. RECENT TRENDS IN GOVERNMENTAL POLICIES RELATING TO THE FULFILLMENT OF BASIC NEEDS FOR FOOD, SHELTER, HEALTH CARE AND EDUCATION:

A. POLICIES RESPONDING TO OR IGNORING NEEDS OF THE POOR - PRESIDENT BANDA DESERVES HIGH MARKS AS AN ECONOMIC PLANNER. WITHIN ITS NARROW ECONOMIC LIMITS (\$150 PER CAPITA GNP, NO SIGNIFICANT UNDERGROUND RESOURCES), MALAWI SINCE INDEPENDENCE HAS FARED VERY WELL. MALAWI'S IMPRESSIVE 6.5 PERCENT REAL AVERAGE GROWTH SINCE 1964 HAS BEEN ACHIEVED IN PART BY PAYING ARTIFICIALLY LOW PRICES TO THE FARMER FOR EXPORTABLE COMMODITIES. NEVERTHELESS, GIVEN ITS AVAILABLE RESOURCES THE MALAWI GOVERNMENT HAS MADE A CREDITABLE EFFORT TO BRING BASIC EDUCATIONAL AND HEALTH SERVICES TO THE POPULACE.

B. CORRUPTION DIVERTING RESOURCES TOWARD THE ELITE AND AWAY FROM THE POOR - PRESIDENT BANDA AND HIS CLOSE COLLEAGUES HAVE PROFITED GREATLY FROM THEIR POLITICAL POWER. THEIR LAND HOLDINGS, IN PARTICULAR, ARE IMPRESSIVE, AND THE PRESIDENT'S INVOLVEMENT IN DIVERSE BUSINESS ACTIVITIES IS COMMON KNOWLEDGE. ON THE OTHER HAND,

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OFFICIAL VENALITY AND CORRUPTION ARE VIRTUALLY UNKNOWN IN MALAWI, AND SUCH BREACHES OF THE PUBLIC TRUST AS DO OCCUR ARE SUMMARILY DEALT WITH WHEN DISCOVERED.

4. GOVERNMENT RESPONSIBILITY FOR THE FOREGOING RECORD:

THE MALAWI GOVERNMENT'S RESPONSIBILITY FOR THE HUMAN RIGHTS SITUATION IN THE COUNTRY IS AS ABSOLUTE AS ITS CONTROL.

5. GOVERNMENT ATTITUDE AND RECORD REGARDING INTERNATIONAL AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS:

PRESIDENT BANDA CONTENDS THAT THE ABSOLUTE AUTHORITARIANISM HE HAS ESTABLISHED IS ESSENTIAL FOR MALAWI'S DEVELOPMENT, THAT MALAWI IS UNIQUE, AND THAT NO ONE OUTSIDE MALAWI HAS ANY RIGHT TO CRITICIZE HIS POLICIES. THERE IS NO PROSPECT THAT HE WILL PERMIT OUTSIDE INVESTIGATION OF ALLEGED HUMAN RIGHTS VIOLATIONS. THE UNHCR HAS BEEN DENIED ACCESS TO ANY INFORMATION ABOUT THE STATUS OF MALAWIAN JEHOVAH'S WITNESSES. AMNESTY INTERNATIONAL AND SIMILAR GROUPS HAVE ALSO BEEN DENIED ACCESS TO MALAWI; PRESIDENT BANDA AT ONE TIME EXPLICITLY THREATENED REPRISALS AGAINST PRISONERS "ADOPTED" BY AI.

FOREIGN JOURNALISTS HAVE LONG BEEN PERSONA NON GRATA IN MALAWI; RECENTLY, HOWEVER, THE MALAWI GOVERNMENT HAS PERMITTED SEVERAL REPORTERS TO VISIT THE COUNTRY. END TEXT.

CHRISTOPHER

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